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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/807,993	07/13/2001	Joerg Hauptmann	P20914	5094

7055 7590 11/15/2004

GREENBLUM & BERNSTEIN, P.L.C.
1950 ROLAND CLARKE PLACE
RESTON, VA 20191

EXAMINER	
SWERDLOW, DANIEL	

ART UNIT	PAPER NUMBER
2644	

DATE MAILED: 11/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/807,993	HAUPTMANN ET AL.	
	Examiner	Art Unit	
	Daniel Swerdlow	2644	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *13 July 2001*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-5* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-5* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *13 July 2001* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *08/03/01*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

U.S. National Stage Application

Acknowledgment is made of the indication that the present application is filed under 35 U.S.C. 371, of the indication that the required Form PCT/DO/EO/903 is present and of the use of transmittal form PCT/DO/EO/1390. Thus, the present application is being treated as a filing under 35 U.S.C. 371.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1 through 5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. Claim 1 recites the limitation "the node point between the first capacitor and the variable resistor". There is insufficient antecedent basis for this limitation in the claim. Prior to this recitation, Claim 1 recites "a series circuit comprising a first capacitor, at least one variable resistor and a second capacitor". As such, there can be intervening circuit elements between the first capacitor and the resistor since in a series circuit with a plurality of elements each element is in series with every other element. This means that there can be numerous node points between the first capacitor and the resistor. It is, therefore, unclear to which particular node point the claim refers. In order to advance prosecution to the maximum degree possible, examiner makes the interpretation that the recitation is intended as "a node point between the first capacitor and the variable resistor".

4. Claim 3 recites the limitation "the junction point between the transistor and the resistor of the DC source". There is insufficient antecedent basis for this limitation in the claim. Claim 2, from which Claim 3 depends, recites "the DC source has a transistor and a resistor, the load path of the transistor being connected in series with the resistor". As such, there can be intervening circuit elements between the transistor and the resistor since in a series circuit with a plurality of elements each element is in series with every other element. This means that there can be numerous junction points between the transistor and the resistor of the DC source. It is, therefore, unclear to which particular junction point the claim refers. In order to advance prosecution to the maximum degree possible, examiner makes the interpretation that the recitation is intended as "a junction point between the transistor and the resistor of the DC source".

5. Claim 2 through 5 are indefinite due to dependence from Claim 1 and/or 3.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. Claims 1 through 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Price (US Patent 6,393,110).

8. Regarding Claim 1, Price discloses an access arrangement for an ADSL line (i.e., a circuit arrangement for forming the termination of an analog subscriber line) (column 1, lines 9-

14) that has a ring connection and a tip connection (i.e., a first connection and a second connection for the subscriber line) (Fig. 4, reference 406, 404; column 9, lines 59-60) that are connected together by a series circuit comprising a first capacitor (Fig. 4, reference C12), a resistor (Fig. 4, reference R20) and a second capacitor (Fig. 4, reference C13) with a DC source (Fig. 4, reference R23, Q5) connected to a node point between C12 and R20 (i.e., the first capacitor and the resistor). Therefore, Price anticipates all elements except the resistor being variable. Price discloses that the resistor R20 is used in conjunction with another resistor R19 to form a divider that is "set to minimize the transmit signal for the receive data path" (column 9, lines 51-53). As such, Price teaches the need for minimization of the transmit signal for the receive data path and that this minimization can be achieved through setting (i.e., adjusting) of the resistor. Adjustability, where needed, is not a patentable advance, and because there was a disclosed need in Price for adjustment in the resistor, the use of a variable resistor would have been obvious. See In re Stevens , 212 F.2d 197, 101 USPQ 284 (CCPA 1954).

9. Regarding Claim 2, Price further discloses a transistor (Fig. 4, reference Q5) and a resistor (Fig. 4, reference Q5, R23) that correspond to the DC source claimed with the load path of the transistor in series with the resistor and the base (i.e., control connection) of the transistor set by an amplifier and associated elements (Fig. 4, reference U2A; column 9, lines 46-48) that correspond to the control circuit claimed.

10. Regarding Claim 3, Price further discloses the control circuit including an operational amplifier with its output connected to the base (i.e., control connection) of the transistor (Fig. 4, reference U2A, Q5; column 9, lines 46-48), its negative input connected to the junction between

the transistor and resistor (Fig. 4, reference Q5, R23) that correspond to the DC source, and its positive input connected to a reference voltage (Fig. 4, reference IsoRef).

11. Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Price in view of Simokat (US Patent 4,403,115).

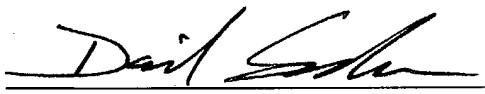
12. Regarding Claims 4 and 5, as shown above apropos of Claims 3 and 4, Price makes obvious all elements except a diode connected in the load path of the transistor. Simokat discloses the use of a diode in the load path of a transistor connected to a telephone line (Fig. 2, reference 169, 165; column 11, lines 1-4). Simokat discloses that such an arrangement protects the transistor from damage. It would have been obvious to one skilled in the art at the time of the disclosure to apply the protective diode taught by Simokat to the circuit made obvious by Price for the purpose of improving the reliability of the circuit by protecting the transistor.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel Swerdlow whose telephone number is 703-305-4088. The examiner can normally be reached on Monday through Friday between 8:00 AM and 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Forrester Isen can be reached on 703-305-4386. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Daniel Swerdlow, Patent Examiner Art Unit 2644